

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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MARIE RITA KENNEDY-LEBAR AND  
CHRIS MURPHY, *on behalf of  
themselves and all others similarly  
situated,*

Plaintiffs,

v.

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VOLKSWAGEN GROUP OF  
AMERICA, INC.,

Defendant.

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**CASE NUMBER:  
2:10-cv-05126-KM-MAH**

**Honorable Kevin McNulty**

**ORDER GRANTING  
PRELIMINARY APPROVAL OF  
SETTLEMENT,  
PRELIMINARILY  
CERTIFYING SETTLEMENT  
CLASS AND APPROVING  
CLASS NOTICE**

This matter comes before the Court pursuant to the Motion for Entry of an Order Granting Preliminary Approval of Class Action Settlement and Approving the Forms and Methods of Notice of the Class (“Motion”) of Plaintiffs Marie Rita Kennedy-Lebar, Chris Murphy, D. Alexander Davis, and Ludette Crisler (collectively, “Plaintiffs”), brought by Initiative Legal Group APC, Strategic Legal Practices APC, Seeger Weiss LLP, The Law Office of Robert Starr, Patrick Law Firm, P.C., Premier Legal Center, A.P.C., Bailey Perrin Bailey and Hughes Ellzey, LLP (collectively, “Plaintiffs’ Counsel”). Chase, Kurshan, Herzfeld & Rubin, LLC and Herzfeld & Rubin, P.C. have appeared on behalf of Defendants Volkswagen Group of America, Inc., Audi AG, Volkswagen AG and

Volkswagen de Mexico, S.A. de C.V. (collectively, “Defendants”) (collectively with Plaintiffs, the “Parties”).

Having considered the Settlement Agreement, Plaintiffs’ Motion, all accompanying declarations and exhibits thereto, and all of the legal authorities and documents submitted in support of the Motion, and **GOOD CAUSE** appearing, **IT IS HEREBY ORDERED** that the Motion for Preliminary Approval of Class Action Settlement is **GRANTED**, subject to the following findings and orders:

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1. The Court finds that the requirements of Rule 23 of the Federal Rules of Civil Procedure for the preliminary approval of the Settlement and conditional certification of the proposed Settlement Class are met. The following Class is hereby conditionally certified for purposes of settlement only: “All persons and entities who purchased or leased, within the United States of America, any 2005 and 2006 model year Audi A4 (B7) vehicle, 2005 model year Audi A4 (B6) vehicle, and 2004, 2005, 2006 and 2007 (pre-GP) model year Volkswagen Touareg vehicle, imported and distributed by defendant Volkswagen Group of America, Inc., for sale or lease in the United States of America, which was equipped with factory installed HID Headlight Parts.” Excluded from the Settlement Class are (a) anyone claiming personal injury, property damage and/or subrogation, (b) all Judges who have presided over this action, and their spouses,

(c) all current employees, officers, directors, agents and representatives of Defendants, and their family members, (d) any affiliate, parent or subsidiary of Defendants and any entity in which Defendants have a controlling interest, (e) anyone who purchased a Settlement Class Vehicle for the purpose of resale, (f) anyone who purchased a Settlement Class Vehicle with salvaged title and/or any insurance company who acquired a Settlement Class Vehicle as a result of a total loss, (g) any insurer of a Settlement Class Vehicle, (h) any owners or lessees of Settlement Class Vehicles that were not manufactured for export specifically into the United States of America and were not imported or distributed by Volkswagen Group of America, Inc., and (i) any Settlement Class Member who files a timely and proper Request for Exclusion from the Settlement Class.

2. The Court conditionally appoints Plaintiffs Marie Rita Kennedy-Lebar, Chris Murphy, D. Alexander Davis, and Ludette Crisler as Class Representatives of the above-described Settlement Class. The Court also preliminarily finds that Initiative Legal Group APC, Strategic Legal Practices APC, Seeger Weiss LLP, The Law Office of Robert Starr, Patrick Law Firm, P.C., Premier Legal Center, A.P.C., Bailey Perrin Bailey and Hughes Ellzey, LLP are experienced and adequate counsel, and hereby confirms them as Class Counsel.

3. The Court hereby approves and appoints Rust Consulting, Inc. as

Settlement Claim Administrator.

4. The Court orders that, on or before August 5, 2013, the Claim Administrator shall cause individual notice, in the form attached hereto as Exhibits A and B, as applicable, to be mailed, by first class mail, to the current or last known addresses of all reasonably identifiable Settlement Class Members as set forth in the Settlement Agreement. Defendants may format the Class Notice in such a way as to minimize the cost of the mailing, so long as Settlement Class Members can reasonably read it. The Claim Administrator shall be responsible for dissemination of the Class Notice in the manner stated above, and pursuant to the terms of the Settlement Agreement. The Class Notice shall be accompanied by a claim form in a form substantially similar to that attached hereto as Exhibits C and D, as applicable. As set forth in the Settlement Agreement, Volkswagen Group of America, Inc. shall bear all costs associated with providing class notice.

5. The Court has preliminarily reviewed the parties' proposed Settlement and finds that its terms appear sufficiently fair, reasonable, and adequate to warrant dissemination of notice of the proposed Settlement to the Settlement Class and the scheduling of a formal fairness hearing. The Court finds that the Parties entered into the Settlement in good faith, following arm's length negotiation between their respective counsel.

6. Plaintiffs' Motion for Class Counsel Fees and Costs shall be filed by

September 5, 2013.

7. The Class Members shall have until September 16, 2013 to (a) submit their comments or objections to the settlement and/or the Plaintiffs' fee application; or (b) opt out of the settlement class. The procedures and requirements for commenting on and objecting to the settlement as well as for opting out of the settlement class shall be those listed in the notice attached hereto as Exhibits A and B.

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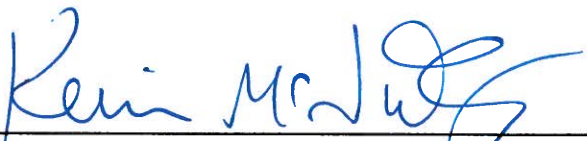
8. Plaintiffs' Motion for Final Approval of Class Action Settlement shall be filed by September 30, 2013.

9. A hearing on final settlement approval (the "Final Approval (Final Fairness) Hearing") will be held before this Court at the United States Post Office and Courthouse Building, Courtroom No. 3, Federal Square, Newark, New Jersey on October 25, 2013 at 10:00 a.m., to consider, *inter alia*, the following: (a) the adequacy of the Class Representatives and whether the Settlement Class should be finally certified; (b) the fairness, reasonableness and adequacy of the Settlement Agreement; (c) the dismissal with prejudice of the Action as to Defendants; (d) whether Class Counsel's application for attorneys' fees, expenses, and compensation for the Class Representatives ("the Fee and Cost Application") should be granted; (e) whether to finally approve the Settlement Agreement; and (f) whether the Court should enter an order expressly

determining that there is no just reason for delay and expressly directing that any judgment by the Court approving the Settlement Agreement and the Settlement Class should be deemed a final judgment under Fed. R. Civ. P. 54(b) with respect to all Claims by Settlement Class Members against Defendants and all Released Parties.

**IT IS SO ORDERED**

Dated: April 19, 2013

  
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Hon. Kevin McNulty  
United States District Court Judge